

by a personal or surety bond as security. This statute is a part of the corporate charter, in so far as it relates to the exercise of power by a bank. The power is express, not incidental or implied; and when a legislative enactment prescribes one mode of exercising an express power or privilege, it implies an inhibition to exercise the given power in any other way."

In the case of *Farmers State Bank vs. County of Marshall*, 175 Minn. 363, 221 N. W. 242, it is held:

"A bank has no power to pledge any of its assets, particularly bills receivable, to secure the repayment of deposits except as such pledge is authorized by statute to secure deposits of public funds."

In specific answer to your question, I am of the opinion that county commissioners may not legally accept as security for the deposit of county funds in a county depository, notes of individuals, partnerships, associations or private corporations unsecured by first mortgages on approved real estate in Ohio, or any other securities than those enumerated in Sections 2732 and 2288-1, General Code.

Respectfully,

JOHN W. BRICKER,

*Attorney General.*

229.

MOTOR VEHICLES—MAXIMUM LOAD OF TRUCKS—DETERMINED BY WIDTH OF TIRES SUBJECT TO A MAXIMUM WEIGHT LIMITATION.

SYLLABUS:

*By virtue of the provisions of section 7248, General Code, the widths of the tires on all the wheels of a vehicle are to be taken into consideration in computing and determining the gross weight that a vehicle can lawfully have and carry over the highways of this state. However, the maximum load permitted to be carried by a vehicle computed and determined in accordance with the provisions of section 7248, General Code, cannot exceed the maximum load or gross weight allowed by sections 7246 and 7248-1, General Code, to be carried by a vehicle over the highways.*

COLUMBUS, OHIO, March 18, 1933.

HON. C. G. L. YEARICK, *Prosecuting Attorney, Newark, Ohio.*

DEAR SIR:—This will acknowledge receipt of your letter which reads as follows:

"The following question has been raised in regard to the operation of trucks on state highways:

The statute provides a limitation as to the number of pounds for each axle and for each wheel. Will the fact that there are double wheels carrying two tires increase the number of pounds allowed? The statutes referred to are Sections 7748 et seq."

Section 7248, General Code, reads as follows:

"No person, firm or corporation shall transport over the improved public streets, alleys, inter-county highways, main market roads, bridges or culverts in any vehicle propelled by either muscular, motor or other power, any burden, including weight of vehicle and load, greater than the following:

In vehicles having metal tires three inches or less in width a load of five hundred pounds for each inch of the total width of tire on all wheels. When the tires on such vehicles exceed three inches in width an additional load of eight hundred pounds shall be permitted for each inch by which the total width of the tires on all wheels exceeds twelve inches.

In vehicles having tires of rubber or other similar substances, for each inch of the total width of tires on all wheels, as follows: For tires three inches in width, a load of four hundred and fifty pounds; for tires three and one-half inches in width, a load of four hundred and fifty pounds; for tires four inches in width, a load of five hundred pounds; for tires five inches in width, a load of six hundred pounds; and, for tires six inches and over in width, a load of six hundred and fifty pounds. The total width of tires on all wheels shall be, in case of solid tires of rubber or other similar substance, the actual width in inches of all such tires between the flanges at the base of the tires, but in no event shall that portion of the tire coming in contact with the road surface be less than two-thirds the width so measured between the flanges. And in the case of pneumatic tires of rubber or other similar substance, the total width of all tires on all wheels shall be the actual width of all such tires measured at the widest portion thereof when inflated and not bearing a load.

In no event shall the load, including the proportionate weight of vehicle that can be concentrated on any wheel, exceed six hundred and fifty pounds to each inch in width of the tread as defined above for solid tires; or each inch in the actual diameter of pneumatic tires measured when inflated and not bearing a load."

Section 7248 regulates the weight of vehicle and load that can be transported over the highways of this state in relation to the tire surface of a vehicle. The statute provides for an increase of weight as the surface of the tires is increased. The statute specifically provides that the total width of the tires on all the wheels shall be computed in determining the gross weight which may be carried by a vehicle. There is no provision in section 7248 which limits a vehicle to only four wheels. In view of that fact, the gross weight that may be carried by a vehicle having double tires would be determined by taking into consideration the total width of the tires on all the wheels of such a vehicle.

Although the maximum load permitted to be carried by such a vehicle is to be determined as provided by section 7248, nevertheless the maximum load or gross weight that may be transported by such a vehicle is subject to and limited by the provisions of sections 7246 and 7248-1, General Code. Section 7246 reads:

"No traction engine or steam roller weighing in excess of twelve tons, or no trailer, semi-trailer, wagon, truck, automobile truck, commercial tractor, or other vehicle, whether propelled by muscular or motor power, weighing in excess of ten tons, including weight of vehicle and

load, shall be operated over and upon the improved public highways and streets, bridges or culverts within the state, except as provided in this chapter.

This provision shall not apply to vehicles run upon rails or tracks or to fire engines, fire trucks or other vehicles or apparatus belonging to any municipal or volunteer fire department or used by such department in the discharge of its functions, or to any trailer, semi-trailer, wagon, truck, automobile truck, commercial tractor or other vehicle, whether propelled by muscular or motor power, weighing not more than twelve tons, including weight of vehicle and load, when equipped with pneumatic tires. No object shall be moved over or upon such streets, highways, bridges or culverts upon wheels, rollers or otherwise, except as provided in this chapter, in excess of a total weight of twelve tons, including weight of vehicle, object or contrivance, and load."

Section 7248-1 provides as follows:

"No vehicle shall be operated upon the improved public highways and streets, bridges or culverts within this state, having a gross weight, including load, greater than sixteen thousand pounds on both wheels of one axle, when such vehicle is equipped with solid rubber tires or greater than eighteen thousand pounds on both wheels of one axle when such vehicle is equipped with pneumatic tires, or no vehicle having more than eighty per cent of the permissive gross weight of vehicle and load concentrated on both wheels of one axle, or equipped with solid rubber tires of a thickness averaging less than the following: For three, three and one-half, four and five inch tires, seven-eighths inch; for six, seven and eight inch tires, one inch; and for ten, twelve and fourteen inch tires, one and one-eighth inch. Thickness of solid rubber tires as used herein shall be the average thickness of rubber measured from the top of the flanges of the tire channel."

Sections 7246 and 7248-1, in substance, provide that no vehicle in excess of ten tons, including the weight of vehicle and load, shall be operated over a public highway in this state and that a gross weight of not more than eight tons can be carried on both wheels of one axle. These sections further provide that any vehicle equipped with pneumatic tires cannot have a gross weight, including load, or more than twelve tons when operated over a public highway and that a gross weight of not more than nine tons can be carried on both wheels of one axle. It is further provided by those statutes that, where a vehicle has a gross weight less than ten tons, not more than eighty per cent of the permissive gross weight of vehicle and load can be carried on both wheels of one axle.

Specifically answering your inquiry, I am of the opinion that, by virtue of the provisions of section 7248, the widths of the tires on all the wheels of a vehicle are to be taken into consideration in computing and determining the gross weight that a vehicle can lawfully have and carry over the highways of this state. However, the maximum load permitted to be carried by a vehicle computed and determined in accordance with the provisions of section 7248 cannot exceed the maximum load or gross weight allowed by sections 7246 and 7248-1 to be carried by a vehicle over the highways.

Respectfully,

JOHN W. BRICKER,

*Attorney General.*